

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-728

February 28, 2002

BANGOR HYDRO-ELECTRIC COMPANY  
Proposed Rate Change to Increase Annual  
Revenues Approximately \$6.4 Million

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Order, we accept Bangor Hydro-Electric Company's (BHE or Company) proposal to defer for 90 days the initiation of the management audit of BHE which the Commission proposed in a draft order issued on January 10, 2001. At the same time, BHE will defer the filing of its request for a rate increase of approximately \$6.4 million. During the 90-day period, the Commission's Staff and other interested stakeholders will attempt to design a mutually acceptable Alternative Rate Plan (ARP), which may obviate the need for both the Company's proposed increase and the need for a management audit.

**II. BACKGROUND**

On October 18, 2001, BHE filed a 2-month Notice of Intent to File a Rate Case under the provisions of 35-A M.R.S.A. § 307. A Notice of Proceeding which provided interested persons with an opportunity to intervene was issued on December 14, 2001. Petitions to intervene were filed by the Office of the Public Advocate (OPA), the Industrial Energy Consumer Group (IECG) and Donna Robinson, a residential ratepayer of BHE.

On January 10, 2002, the Commission issued a draft order proposing to initiate a management audit of BHE. In our proposed order, we noted that, given the Company's current high rate structure, recent rate activity and potential for savings from the merger with Emera, Inc., it appeared appropriate to conduct a management audit to examine the Company's current cost structure, its operating efficiency, and the potential for savings from the merger. Comments on the draft order were filed by BHE, the OPA and the IECG.

In its comments, BHE argued against conducting a management audit. First, it asserted that while its rates may be higher than those of Maine's other electric utilities, this alone did not justify a management audit. Second, the Company noted that the scope of the management audit would require the devotion of significant management resources. Finally, the Company expressed concern about being forced to enter into a contract with a management auditor selected by the Commission involuntarily.

As an alternative to the initiation of the management audit, the Company offered to defer the filing of its rate case for a 90-day period. At the same time, the Commission would defer initiating its management audit. During this period, the Commission and parties to the Company's Alternative Rate Plan (ARP) case could attempt to negotiate a mutually acceptable ARP for BHE. The Company argued that if these discussions are successful there will be no need for either a management audit or a rate case. BHE further stated that to demonstrate its good faith, the Company was willing to use current rates as the starting point for the ARP, assuming the other provisions of the ARP were reasonable.<sup>1</sup>

The comments of both the IECG and the OPA were filed after, and in response to, BHE's comments. The IECG stated that it considered BHE's proposal to be an intriguing alternative to the management audit and had the potential to provide greater ratepayers benefits than a rate case and management audit. Therefore, the IECG recommended that the Commission defer deliberations on the draft order and offer BHE the opportunity to more fully present the alternatives alluded to in its proposal. The IECG noted that it welcomed the opportunity to explore ratemaking alternatives for BHE.

The OPA recommended that the Commission reject the Company's proposal. First, the OPA noted that it was skeptical about the prospects for a successful ARP negotiation if the Company had a \$6.4 million rate increase that it could activate if negotiations failed. Second, the OPA considered the results of the audit to be necessary in the design of an ARP for BHE. Finally, the OPA noted that it was doubtful that BHE would drop its \$6.4 million rate increase request unless it were going to recover this money during the ARP and therefore, negotiations under such conditions appeared to be pointless.

### **III. DECISION**

We find that the mutual deferral, or "cooling off," proposal offered by the Company provides a no-lose situation for ratepayers in that BHE will not begin the formal process to increase its rates during the "cooling off" period and the Commission retains all of its options to initiate an audit if a mutually acceptable ARP is not developed. Regarding the OPA's concern about information that the audit would supply in designing an ARP, we encourage the Company to provide information to stakeholders during the collaborative process to allow such parties to have a meaningful dialogue on ARP alternatives. As noted above, if a mutually acceptable ARP cannot be developed, the Commission retains the authority to initiate the audit at the expiration of the "cooling off" period.

We thus accept BHE's proposal to defer the initiation of the management audit described in our draft order of January 10, 2002 for 90 days to allow intervenor

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<sup>1</sup>Our acceptance of BHE's proposal should not be taken as reflecting a position on the appropriate starting point of the Company's rates under an ARP. Similarly, it is not our intent to limit the flexibility of the negotiators in this area.

stakeholders to discuss the development of a mutually acceptable ARP. During this time period, the Company will defer filing the rate case which was the subject of its October 18, 2001 notice.<sup>2</sup> This approach will allow Emera, BHE's new owners, to carefully examine the Company's cost and rate structure and to attempt to address the concerns set forth in our draft management audit order on their own initiative and in a manner that benefits both ratepayers and shareholders prior to the initiation of a potentially costly and controversial management audit. Should it appear that the collaborative process will not be concluded before the expiration of the "cooling off" period, the Examiner shall submit a report on the progress of the stakeholder ARP discussions 10 days prior to the expiration of "cooling off" period.

Dated at Augusta, Maine, this 28<sup>th</sup> day of February, 2002.

BY ORDER OF THE COMMISSION

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Raymond J. Robichaud  
Assistant Administrative Director

COMMISSIONERS VOTING FOR:

Welch  
Nugent  
Diamond

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<sup>2</sup>We will consider the ninety day "cooling off" period to have begun to run as of the date of our deliberations on this matter, January 22, 2002.

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.